

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF PUERTO RICO

IN RE:

CASE NO. 10-01579-ESL

GILBERTO CASTRO NIEVES  
LILIA MARIA MUNOZ VINUEZA

CHAPTER 13

DEBTOR(S)

\*\*\*\*\*

TRUSTEE'S MOTION TO DISMISS

TO THE HONORABLE COURT:

Comes now Alejandro Oliveras Rivera, Chapter 13 Trustee and respectfully states and prays:

1. The meeting of creditors was held on July 8, 2010. The current proposed plan is dated February 28, 2010.
2. Debtor(s) failed to comply with the Trustee's requirement to:
  - a. ☐ Amend Schedule(s): .
  - b. ☐ Amend Statement of Financial Affairs.
  - c. ☒ Amend Plan.
  - d. ☒ Make current payments. Paid 2 out of 4 (\$1,000.00 in arrears).
  - e. ☒ Address issues raised at meeting of creditors.
3. No extension of time or justification for failing to comply with the above has been filed.
4. Debtor(s) is(are) not a member(s) of the U.S. Armed Forces, the Coast Guard, the Public Health Service or the National Oceanic and Atmospheric Administration, as evidenced by the Certificate issued by the U.S. Department of Defense, copy of which is attached only to the original of this motion and movant's copy.

WHEREFORE, for the reasons stated above it is respectfully requested from the Court to enter an order dismissing the present case pursuant to 11 U.S.C §521 AND §1325(a)(6).

**30 DAY NOTICE TO ALL CREDITORS AND PARTIES IN INTEREST :** You are hereby notified that you have thirty (30) days from the date of this notice to file and opposition to the foregoing motion and to request a hearing. If no opposition is filed within the prescribed period of time, the Trustee's Motion will be deemed unopposed and may be granted without further hearing unless (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise. If a timely opposition is filed, the Court will schedule a hearing as a contested matter.

Motion to Dismiss  
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**CERTIFICATE OF SERVICE:** I hereby certify that on this same date I electronically filed the above document with the Clerk of the Court using the CM/ECF System which sent a notification of such filing to all those who in this case have registered for receipt of notice by electronic mail. I further certify that I have served to the U.S. Trustee, ustpreregion21.hr.ecf@usdoj.gov and by depositing true and exact copies thereof in the United States Mail, postage prepaid, to the non CM/ECF participants: debtor(s) and parties in interest that have filed a notices of appearance included in the address list attached to the original and the Trustee's copy on file.

**RESPECTFULLY SUBMITTED** in San Juan, Puerto Rico this, July 20, 2010.

/s/ Alejandro Oliveras Rivera  
**ALEJANDRO OLIVERAS RIVERA**  
CHAPTER 13 TRUSTEE  
P.O. Box 9024062  
San Juan, PR 00902-4062  
Tel. 977-3500 Fax 977-3521

Department of Defense Manpower Data Center

Jul-20-2010 10:15:03



Military Status Report  
Pursuant to the Service Members Civil Relief Act

| ◀ Last Name   | First/Middle | Begin Date   | Active Duty Status | Active Duty End Date | Service Agency |
|---------------|--------------|--|--------------------|----------------------|----------------|
| CASTRO NIEVES | GILBERTO     | Based on the information you have furnished, the DMDC does not possess any information indicating the individual status. |                    |                      |                |

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

A handwritten signature in black ink that reads "Mary M. Snavely-Dixon".

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Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.  
Report ID:1A9DTTCMJ2

Department of Defense Manpower Data Center

Jul-20-2010 10:15:42



Military Status Report  
Pursuant to the Service Members Civil Relief Act

| ◀ Last Name   | First/Middle | Begin Date   | Active Duty Status | Active Duty End Date | Service Agency |
|---------------|--------------|--|--------------------|----------------------|----------------|
| MUNOZ VINUEZA | LILIA MARIA  | Based on the information you have furnished, the DMDC does not possess any information indicating the individual status. |                    |                      |                |

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*Mary M. Snavely-Dixon*

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Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

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WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.  
Report ID:MGOPDOTVL4

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail or electronically sent to the parties listed below:

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UNDARE INC.  
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DATED: July 20, 2010

S/DIANA ARROYO  
OFFICE OF THE CHAPTER 13 TRUSTEE

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail or electronically sent to the parties listed below:

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